

REMARKS

A. Overview

Claims 1-89 are pending in the present application. Applicant's prior response was intended to advance prosecution by placing the claims in what were indicated to be allowable form. Apparently the finding has been rescinded, although no reasoning is provided in the present action.

In light of the new rejection, this response enters revisions to the claims and arguments in favor for patentability. Reconsideration is respectfully requested.

B. Renewed Request for Clarification Regarding IDS

In the prior response, Applicants requested clarification as to whether the "foreign patent documents" submitted in Applicant's Information Disclosure Statement had been considered. The present action did not respond to this inquiry. It is respectfully requested that an initialed copy of the IDS listing of those references be supplied to the undersigned to confirm they have been considered.

C. Claim Objections

Certain claims have been found ambiguous as to whether they cover just the pole covering or covering in combination with a pole. Claims 2-9 have been amended to make it clear that they cover the combination of the covering and the pole. The other claims depending from independent claim 1 are submitted to clearly apply to the pole covering.

No changes have been made to claims 46-48 as they are method claims and are submitted to clearly involve method steps relative to a pole.

Claims 57-59 and 74-76 have been revised in a similar manner as claims 2-9.

It is therefore respectfully submitted the claims have been made clear as to which cover a combination with the pole and which do not.

Claim 40 was found objectionable as being duplicative of claim 1, as previously amended. The present response removes any arguable duplicative language of claim 1 and therefore moots this objection.

D. Drawings

Objection has been made to having text within the drawings. This objection is respectfully traversed. It is submitted that the text is minimal and relates to either dimensional characteristics or aids an understanding of the structure illustrated in the drawings. However, to resolve this issue, accompanying this response are replacement sheets of drawings with the text removed. Also attached are those same sheets with red-lining indicating the changes. Approval of these changes is respectfully requested.

It is noted that additions to the Specification of pages 5-6 have been made which essentially take the content of the text removed from the drawings and place it in the Specification. No new matter is added.

E. 35 U.S.C. § 103 Rejection

All of claims 1-89 have been rejected as obvious. The primary reference in each of the rejections Gordin and Drost U. S. Patent No. 6,340,790 is co-owned by the Assignee of the present application and invented by the same two inventors as the present application.

Secondary references are Kozikowski, U. S. Patent No. 4,543,764, Oakes U. S. Patent No. 3,968,561 and Swanson U. S. Patent No. 4,092,079.

A *prima facie* case of obviousness requires that (a) one or more references, (b) teach, (c) a reason, suggestion or motivation to combine or modify them, (d) in a manner that appears to show or suggest the claimed invention to one of ordinary skill in the art. References must also be "analogous art", i.e., either in the field of endeavor of the invention or reasonably pertinent to the problem being solved by the invention.

First, properly construed, the claims are patentably distinct from the cited art. The claims must be interpreted in light of the specification. The specification makes clear the invention is a covering for placement over a pole for purposes of protecting the pole against moisture or other corrosive elements and/or providing a new look to the exterior of the pole. The preferred embodiment is a quite thin (fraction of an inch thick) plastic that is literally wrapped and fixed in position along the pole. It has no structural supporting characteristics. It is a cover for the structural pole -- not a part of the structural supporting nature of the pole itself.

The cited Gordin '790 patent speaks nothing of any covering over the pole. Its disclosure is limited to describing the structural pole itself. The Examiner cites accurately to the fact one version of the pole could comprise tapered, slip-fitting sections that end up with portions which overlap one another. Clearly, however, it is inappropriate, and contrary to any reasonable interpretation of the claims, to say that the overlapping parts of the structural portion of the pole are not the pole but a cover to the pole. Gordin '790 clearly has no teaching of a non-structured cover over the pole.

Secondly, Kozikowski, Swanson and Oakes are non-analogous to the present claimed invention. Oakes is limited to the teaching of a "metal structural member" filled with foam.

There is no teaching regarding a structural member having a non-structural layer covering it. And, there is no suggestion of any of the exemplary embodiments forming relatively tall structural poles. Examples focus on metal window frames. Thus, Oakes is neither in the field of relatively tall poles, nor reasonably pertinent to the problem addressed by the claimed invention - covering the exterior of the pole. Oakes thus has no indicated relevance to the field of endeavor of the invention. As discussed, it is about making small structural metal members like picture frames by a metal exterior and foam filled interior. It has nothing to say about how to protect the metal exterior, for example, of a structural pole. It thus has no application of relevance to the problem being solved by the present invention.

Kozikowski and Swanson are directed to pole repair structures. In each case relatively specific structures are utilized to repair or connect sections of the pole. In each case, the structures are integrately and explicitly for the purpose of ending up as structural support for the pole itself. Moreover, both contemplate only a joint type structure for the part of the pole at the position of either a needed repair or a joint for two sections of the pole.

Likewise, Kozikowski and Swanson are not in the field of endeavor of the invention. The present invention is not about repairing poles or connecting sections of poles -- it is about covering the exterior of poles to prevent corrosion. Kozikowski and Swanson are not reasonably pertinent to the problems solved by the invention. They relate to repairing damage rather than preventing it.

It is therefore respectfully submitted § 103 rejections should be withdrawn as lacking a *prima facie* case as none of the secondary references are analogous to the present invention.

Third, the secondary references teach nothing about combining themselves with the primary reference. As stated, Oakes is a method of making a metal structural member of the type

for a window frame. There is no suggestion shown or cited from Oakes that it should be used to create a substantially tall vertical pole for supporting items substantially in the air. Kozikowski and Swanson are directed towards repair of poles. There is no suggestion of combination. There is no suggestion of application to covering new poles or preventing water framing reaching the exterior of poles.

Fourth, even if combined, they do not appear to show or suggest the claimed invention to one of ordinary skill in the art.

Oakes teaches that the interior of a hollow metal piece should be filled with foam. There is no teaching of an outer layer to prevent water reaching the exterior of a pole.

Kozikowski and Swanson teach a relatively small joint to connect or reinforce parts of a pole and do so in a manner that they become part of the structural characteristic of the pole at that point. They do not teach a relatively thin cover to prevent moisture from getting to a substantial part of the pole exterior.

For those additional reasons, it is respectfully submitted that the obviousness rejection should be withdrawn as not presenting a *prima facie* case of obviousness.

Notwithstanding the foregoing, Applicant has amended the independent claims in a manner to focus on certain aspects of the claimed invention to even more clearly differentiate the invention from the cited art.

For example, each of the independent claims specifically states the covering or layer is non-structural. Support for this change can be found throughout the Specification. It is a relatively thin structure and plastic flexible material fixed along the pole. It is thus a non-structural member.

The independent claims have also been amended to make it clear the material is plastic. This excludes metal, wood, concrete, and other structural type conventional pole materials.

Additionally, the independent claims have been amended to make it clear that it can be positioned and fixed along the pole, again, it is not a part of the structural aspects of the pole but a covering over the pole.

Finally, the independent claims have been amended to specifically state thickness of the non-structural plastic is a fraction of an inch thick. This clearly differentiates from the robust, structural type repair devices of Kozikowski and Swanson.

It is therefore respectfully submitted that the independent claims 1, 42, 54, 56, and 73 are not obvious in light of the cited references. Quite simply, neither primary reference Gordin, nor any of the secondary references, Kozikowski, Oakes, or Swanson, has any reason, suggestion, or motivation in them to suggest combination in a manner that appears to show or suggest the claimed invention to one of ordinary skill in the art. The references, singly or in combination, simply do not teach or suggest a non-structural plastic covering positioned along the pole for purposes of protection against moisture to the exterior of the pole and/or changing the nature of the exterior of the pole.

Oakes merely teaches an alleged new way to create structural members, like for window frames, using a metal exterior filled with foam. There is nothing about protecting the exterior of the frame with a covering as described in Applicant's claims. Oakes does speak to the sheet metal having a plastic coating but this is an adhered layer not one that is positioned and fixed along the metal as claimed herein.

As stated, Kozikowski and Swanson are concerned only with strengthening a part of or creating a joint between two pieces of a pole. Their structures become a part of the structural nature of the pole, and do not suggest a non-structural outer layer.

Minor additional changes have been made to the claims for consistency, grammar, or clarification purposes only.

Claim 17 has been cancelled without prejudice.

Applicants would also like to point out that limitations in some of the depending claims are clearly not taught or suggested by the cited art.

With respect to claims 11-12 and 48-49, Gordin '790 certainly teaches a multi-section, slip-fit, tapered pole of hollow metal. However, it teaches nothing of placing a covering over each of the sections. Likewise, none of the secondary references teach placing coverings over each of a plurality of slip-fit sections. Kozikowski and Swanson teach either placing a structural support around a single section of the pole or connecting two ends of a pole in abutment. As can be appreciated, to fit a non-structural covering around each of the sections of a multi-section slip-fit pole, each of the coverings must be adapted to fit the section. It must also be correctly positioned. Some of the depending claims specifically speak to overlapping adjacent ends of the plastic overlayer. Again, this is nowhere contemplated or suggested in any of the cited references.

Likewise, claims such as claim 13 (and similar claims that are pending) specifically define the overlayer as a sheet of material. No teaching of the same exists in the cited art.

Claim 16 specifies a vinyl acrylic alloy as one version of the overlayer. No such teaching is found in any of the prior art.

Claims 21, 22, 47, and 55 define a trapezoidal shape of a sheet. The Office Action implies that the truncated cone of the sections of Gordin '790 would be trapezoidal if laid out in a plane. However this avoids the issue of whether Gordin '790 teaches an overlayer of that shape. It does not.

Similarly, claims 31-33 discuss an opening in the sheet of material that can be formed to align with an opening along the side of the pole, e.g., for access of wiring or other electrical conduit into interior of the pole. Gordin '790 certainly teaches a conventional opening in the pole, but not in the context of forming an opening in an overlayer that can be aligned with the opening in the pole.

Claim 36 discusses covering substantially all of a pole with the overlayer. Gordin '790 has no such teaching. Kozikowski and Swanson have absolutely no such teaching. Oakes at most teaches there can be sheet metal with a plasticized adhered layer. It has no teaching of a structural pole having an added overlayer affixed in position along it.

Finally, claims 37-39 and 40 have the limitation that the overlayer can be colored or textured. The Specification describes this and how this can be advantageously used. The Office Action seems to imply claim limitations regarding coloring or texturing are met by the inherent properties of a pole itself. It cites to Gordin '790 as being galvanized metal and implies that since galvanized metal has a color and a texture it teaches the present claims. It is respectfully submitted this is not a reasonable interpretation of the claims. Certainly any pole exterior has color and a texture. The claims, however, discuss a covering over the pole and the covering has a color or texture. This is different from the characteristics of the exterior of the structural pole itself. To better emphasize this, the amended independent claims specifically describe a non-structural, plastic overlayer which is different from the pole itself. It should be appreciated that

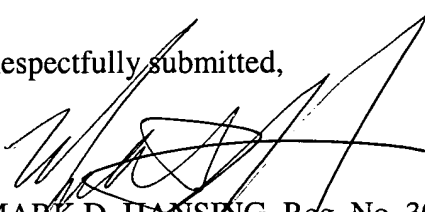
the nature of an added overlay of this type can have advantages such as hiding flaws or imperfections in the texture or coloring of the structural pole itself. It can also have functional purposes such as making the pole more environmentally friendly or blend in with other environmental features. It can also allow the election of color or texture to meet a desire of the owner. There is no teaching or suggestion in any of the references towards this end.

F. Conclusion

It is respectfully submitted that all matters raised in the most recent Office Action have been addressed and remedied and that the claims are in form for allowance. Favorable action is respectfully solicited.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



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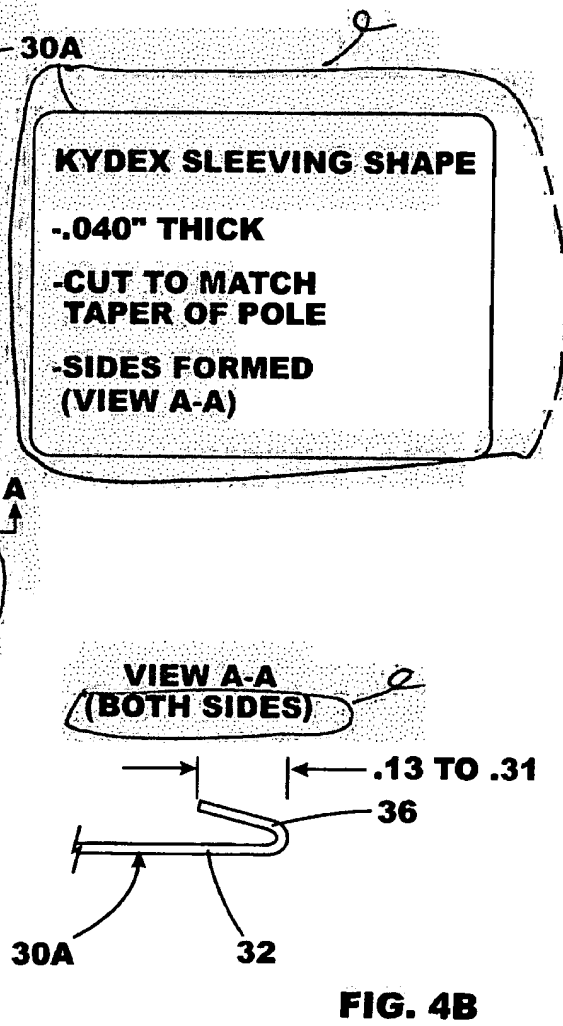
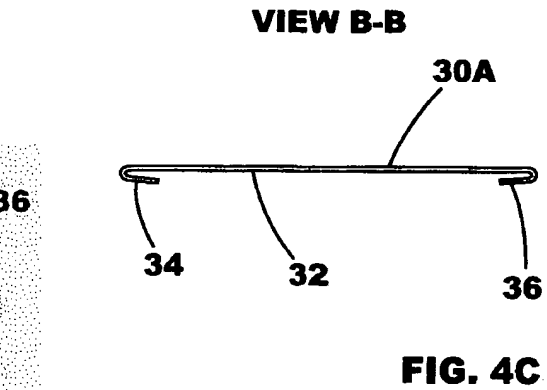
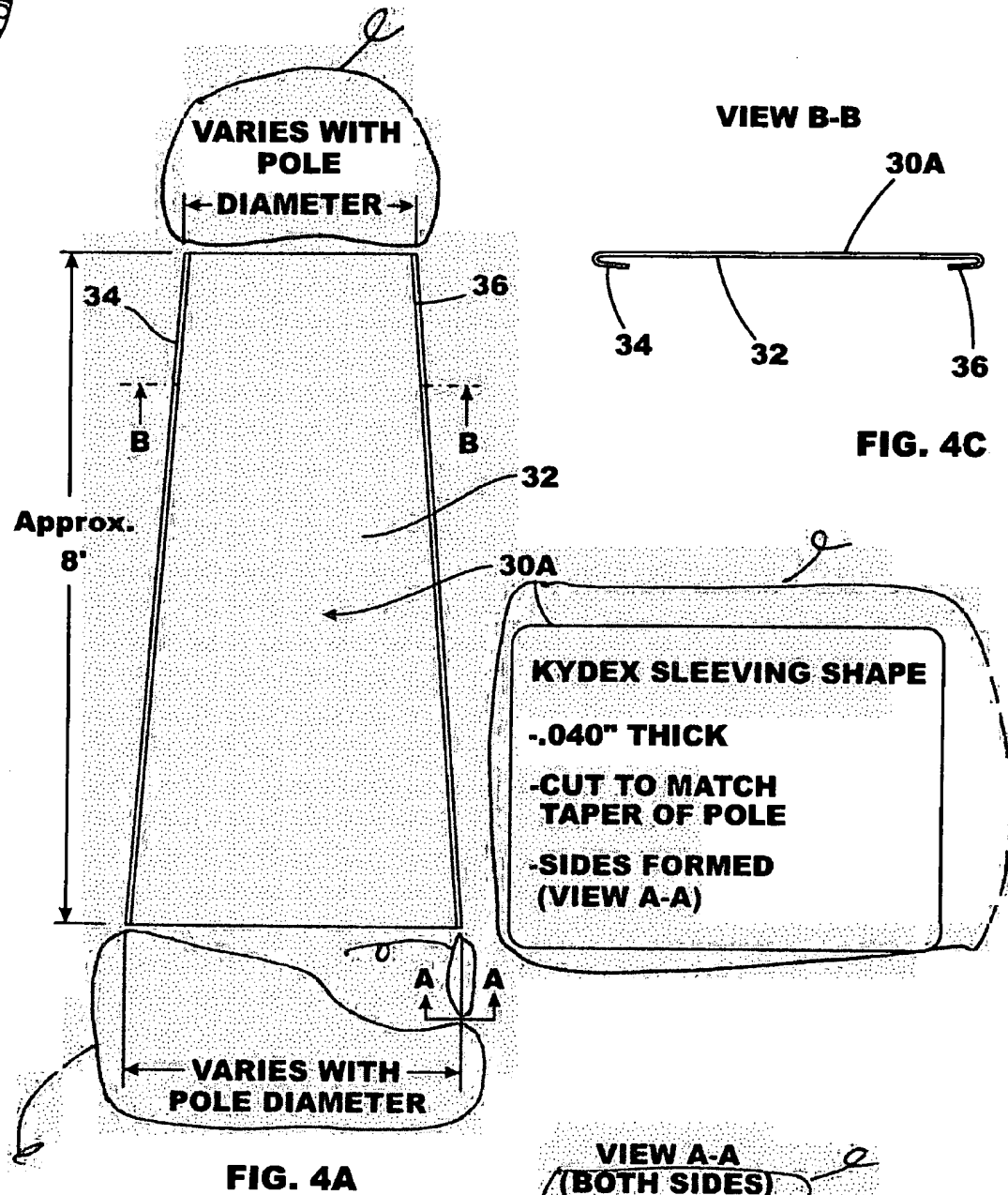
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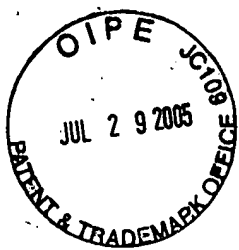
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Enclosures: "Annotated Marked-up Drawings" (2 sheets)
Replacement Sheets of Drawings (2 sheets)



"ANNOTATED MARKED-UP DRAWING"





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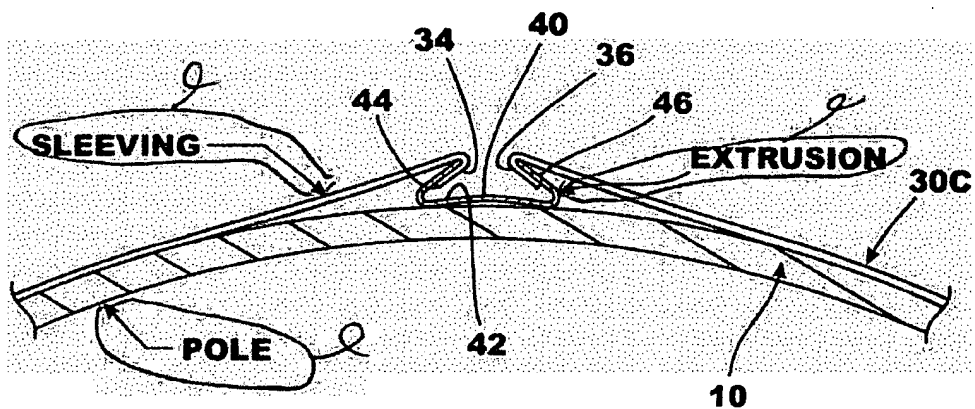


FIG. 6A

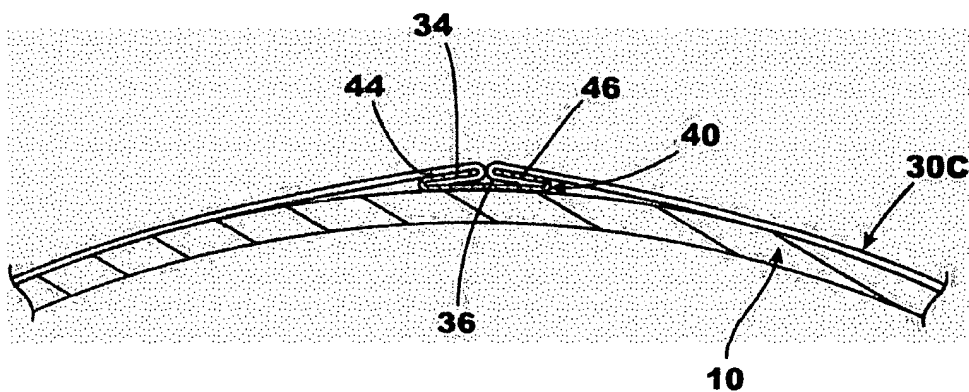


FIG. 6B